IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. **6932** OF **2005**
IN
CRIMINAL APPEAL NO.**183** OF **2005**

Shri Subodh alias
Subhash Rajaram Dudhwadkar ...Appellant.

V/s

The State of Maharashtra ...Respondent.

Ms. Pranali Kakade for the appellant.

Ms. Sangeeta Shinde, APP for the State.

CORAM: V.M.KANADE,J.
DATE: 29th November, 2005
(In Chamber at 5.00 P.M.)

P.C.

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. This is second application filed by the applicant. Earlier application filed by the applicant was allowed to be withdrawn vide order dated 30/03/2005 with liberty to apply again after some time.

3. Applicant is convicted for an offence punishable under sections 458 and 307 of the Indian Penal Code and sentenced to suffer R.I. for ten years and to pay fine of Rs 3,000/-= and, in default, to further suffer R.I. for two months. He is also convicted under

section 324 of the Indian Penal Code and sentenced to suffer R.I. for 3 years and to pay fine of Rs 1500/- and, in default, to further suffer R.I. for one month.

4. The prosecution case is that the accused entered the house of the complainant through window and assaulted her with a knife and after the complainant raised hue and cry, her husband and son woke up and, thereafter, the accused ran away.

5. The learned Counsel appearing on behalf of the applicant has submitted that the accused is in jail since last two years and the injuries on the person of the complainant were not serious and were also not on the vital part of the body. She has stated that the appeal is not likely to be heard for some time and, therefore, the accused may be released on bail. Alternatively, it is submitted that the mother of the accused is ailing and, therefore, on medical ground, applicant may be released on bail.

6. The learned APP has submitted that they have made inquiries and during the course of the inquiry, it has transpired that the mother of the accused was admitted in the hospital. However, now she has been discharged

and is residing with her younger son. She has submitted that, therefore, the ground of release of the accused on the medical ground does not survive. She has invited my attention to the injuries which were caused by the accused to the complainant from the evidence of the doctor and has submitted that the complainant was lucky and, therefore, she has survived from the attack which was made by the accused. She submitted that if the accused is released on bail, the life of the complainant and her family is likely to be in danger.

7. Considering the facts and circumstances of the case, in my view, the accused is entitled to be released on bail. Firstly, the accused has already undergone two years of sentence. Secondly, injuries which were noticed by the doctor on the person of the complainant do not appear to be very serious and are certainly not on the vital part of the body as opined by the doctor who has been examined by the prosecution. However, the fact remains that there is every possibility that the accused may endanger the life of the complainant and her family members. In order to ensure that this does not happen, in my view, the accused may be released on bail on imposing certain strict conditions.

8. In the result, applicant is directed to be released on bail in the sum of Rs 10,000/- with one or two sureties in the like amount. The accused, however, shall not enter the City of Mumbai during the pendency of the appeal. He shall give his new residential address to the Jail Superintendent before his release and shall also inform the address of the Police Station near his new residence to the Jail Superintendent. After his release, the applicant shall report to the said Police Station once in a week for a period of one year and, thereafter, once in a month. Certified Copy of the order passed by this Court also be handed over to the Police Station to which the accused wishes to report. The Jail Superintendent shall also immediately inform the said Police Station to which the accused is going to report after his release. On these terms the application is allowed.

V.M. KANADE, J.